

# **Draft Regulations**

## **Frequently Asked Questions – Chapter 2**

### **Version 1.0 – April 5, 2013**

## **Chapter II**

### **Q: Why isn't an economic hardship a reasonable reason to seek a variance?**

A: There are several answers to this question. First, many economic hardships are self-imposed in that a property may have been acquired cheaply due to it being unbuildable and this characteristic that makes it unbuildable would not be a hardship because it should be known by the buyer in advance and the principle of Caveat Emptor is directly applicable here. If a property owner needs more living or working space but a building addition would require a variance, then this is an example of economic hardship since the owner could find a property with more space elsewhere and certainly knew how much space was in place in the property needing such a variance.

### **Q: Why are you imposing a sunset provision? This is too much regulation.**

A: Sunset provisions are intended to insure that projects are built to a contemporary standard and if an approved plan is not built within a reasonable amount of time, then the conditions of approval applied to the project may soon become obsolete or at least outdated in regard to laws that address health, safety, nuisances, or good building and development practices. A sunset provision requires a project to be completed in a specific timeframe or require it to reapply for a new approval based on the latest provisions.

### **Q: Why the restrictions on re-application? I should be able to apply as many times and as frequently as I want to.**

A: Each application requires a significant amount of staff time and effort to research, review, and develop recommendations on. If a denied application were permitted to reapply after each meeting in which they were denied, this would be an unreasonable burden on staff related to a single application. It also prevents applicants who want to get approved a sloppy or clearly unreasonable project to submit each time with incremental changes forcing staff to determine what the changes were each time. Reapplication restrictions force applicants to submit well-developed projects and complete applications.

### **Q: Why do you have a section on non-conforming uses. Isn't everything built before this ordinance goes into effect grandfathered?**

A: One of the biggest areas of confusion with the existing planning regulations is that there is nothing that addresses how grandfathered (non-conforming) uses are to be handled. This includes whether and under what conditions they can be expanded, changed to another conforming or non-conforming use, rebuilt after fire, or ceased for a period of time and re-established. The objective is to over a period of time make every commercial property conforming to the regulations and not allow non-conformities perpetually without restriction. We believe that we've developed a fair system that defines what a non-conformity is and under what conditions it should be allowed to continue.

**Q: Your section on Regulations in Relation to Municipalities is confusing. What exactly must an applicant do in a municipal planning area?**

A: It is confusing in part because that is the way the state laws in regard to planning areas is in Arkansas. Each city may have a different set of land uses that it wishes to approve and the County must try to determine, to the best of our ability, to learn each of these sets of standards and work with municipalities to make sure customers are not unduly burdened or confused.